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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 7, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00120

Ex Parte: In the matter of
Adopting Rules Governing
Aboveground Storage Tank and
Pipeline Operators Group
Self-Insurance Pools

ORDER TO TAKE NOTICE

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed rules to be designated Chapter 385 of Title 14 of the Virginia Administrative Code and entitled "Rules

Effective April 9, 2002, the new Case Management System requires that the case number format for all Commission orders change from, e.g., PUE010663 to the following: PUE-2001-00663.

Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," and which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150;

WHEREAS, the proposed rules set forth the requirements for the approval and monitoring of aboveground storage tank and pipeline operators group self-insurance pools pursuant to §§ 62.1-44.34:12 and 62.1-44.34:16 of the Code of Virginia; and

WHEREAS, the Commission is of the opinion that the proposed rules should be considered for adoption with an effective date of October 1, 2002;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed rules to be designated Chapter 385 of Title 14 of the Virginia Administrative Code and entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," and which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150, be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed rules shall file such comments or hearing request on or before September 3, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00120;

(3) If no written request for a hearing on the proposed rules is filed on or before September 3, 2002, the Commission, upon consideration of any comments submitted in support of or in

opposition to the proposed rules, may adopt the rules proposed by the Bureau of Insurance;

(4) AN ATTESTED COPY hereof, together with a copy of the proposed rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the rules by mailing a copy of this Order, together with a draft of the proposed rules, to all persons on the attached list; and by forwarding a copy of this Order, together with a draft of the proposed rules, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

CHAPTER 385.
RULES GOVERNING ABOVEGROUND STORAGE TANK AND PIPELINE OPERATORS
GROUP SELF-INSURANCE POOLS.

14 VAC 5-385-10. Purpose.

The purpose of this chapter is to set forth rules, forms, and procedural requirements that the commission deems necessary for the approval and monitoring of pools created pursuant to §§ 62.1-44.34:12 and 62.1-44.34:16 of the Code of Virginia. The pools are to assist operators of facilities in establishing proof of financial responsibility in connection with the Virginia Petroleum Storage Tank Fund (§ 62.1-44.34:11 of the Code of Virginia).

14 VAC 5-385-20. Definitions.

"Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than 90% above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 U.S.C. § 60101 et seq.).

"Administrator" means the individual, partnership, corporation or other entity authorized to serve as a representative of a pool and its members in carrying out the policies of the board and managing the pool's activities.

"Commission" means the State Corporation Commission.

"Contribution" means the amount of payments required of each member in order to fund

the pool's obligations under the pool plan.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil, and includes an aboveground storage tank or pipeline.

"Group self-insurance pool" or "pool" means a pool organized by two or more operators of facilities for the purpose of forming a group self-insurance pool in order to demonstrate financial responsibility as required by § 62.1-44.34:16 of the Code of Virginia.

"Insolvent" means (i) the condition of a pool that has liabilities in excess of assets; or (ii) the inability of a pool to pay its obligations as they become due in the usual course of business.

"Member" means an operator of a facility which has entered into a member agreement and thereby becomes a member of a group self- insurance pool.

"Member agreement" means the written agreement executed between each member and the pool, which sets forth the conditions of membership in the pool, the obligations, if any, of each member to the other members, and the terms, coverages, limits, and deductibles of the pool plan.

"Members' supervisory board" or "board" means the governing authority of the pool selected by the members to be responsible for determining contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses, and administration of the pool in the event of termination or insolvency.

"Pool plan" means the plan of self-insurance offered by the pool to its members as specifically designated in the member agreement.

"Service agent" means any individual, partnership, corporation or other entity that may provide any or all of the insurance services including, but not limited to, claim adjustment, safety engineering, compilation of statistics, the preparation of contribution payments, loss reports, and

other required self-insurance reports, and the administration of a claims fund. A service agent may invest contributions for the benefit of members as directed by the board.

“Service agreement” means the written agreement executed between the pool and a service agent, which sets forth the terms of the insurance services to be provided by a service agent to the pool.

All terms used in this section, which are not defined in this section but are defined in 9 VAC 25-640-10, shall be given the definition contained in 9 VAC 25-640-10.

14 VAC 5-385-30. Application for license as group self-insurance pool; requirements; approval; review.

A. Two or more operators of facilities may be licensed by the commission as a group self-insurance pool for the purpose of entering into agreements to pool their liabilities pursuant to §§ 62.1-44.34:12 and 62.1-44.34:16 of the Code of Virginia. The application for a license shall be made on a form prescribed by the commission and shall contain answers to all questions and shall be verified by the oath or affidavit of at least one member of the board of the pool and the administrator.

The license may be suspended, revoked or non-renewed if the pool fails to comply with the conditions and requirements set forth in § 62.1-44.34:12 of the Code of Virginia and 14 VAC 5-385-40.

B. If after the review of the pool's application and other additional information required by the commission, the commission is satisfied that the pool's financial condition and method of operation are such that the pool reasonably may be expected to meet the obligations, which it has undertaken, and has fully disclosed to its members or potential members the coverages and

obligations of membership in the pool plan, the commission shall issue a license to the pool. The commission shall act on the application as promptly as practicable.

C. If the commission rejects the pool's application, notice shall be served by mail upon all interested parties stating the reason for the rejection. The pool shall be provided an opportunity to introduce evidence and be heard in a hearing convened within a timely manner. Such hearing may be formal or informal.

14 VAC 5-385-40. Application for license; additional requirements.

A. An application submitted by a pool shall be accompanied by the following items, which shall be subject to the approval of the commission.

1. A copy of the articles of incorporation, constitution, or other instrument, which sets forth the powers of the pool.

2. A copy of the bylaws or the governing rules of the proposed pool, which may be included as part of the documents provided pursuant to subdivision 1 of this subsection.

3. A copy of the forms to be used for the member agreement and power of attorney, if any.

4. A copy of a financial plan, which sets forth in specific terms:

a. The insurance coverages to be offered by the group self-insurance pool, applicable deductible levels, and the maximum level of claims which the pool will self-insure;

b. The amount of reserves to be set aside for the payment of claims and the methods used to determine their sufficiency; funds and reserves should be identified by exposure areas;

c. A confirmation of excess insurance, if any, issued by a licensed insurer in an amount acceptable to the commission. However, the commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer; and

d. A confirmation of aggregate excess insurance, if any, issued by a licensed insurer in an amount acceptable to the commission. However, the commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer.

5. A copy of a plan of management, which provides for all of the following:

a. The means of establishing the governing authority of the pool;

b. The responsibility of the governing authority for determining and collecting contributions to the pool, holding and investing assets, maintaining reserves, paying claims, levying and collecting assessments for deficiencies, disposing of surpluses, and the administration of the pool in the event of termination or insolvency;

c. The basis upon which new members may be admitted to, and existing members may leave, the pool. This shall include the requirement that each member, as a condition for initial and continued coverage, submit a financial statement in a form acceptable to the commission, which demonstrates the solvency of the prospective member and its ability to meet its financial obligations; and

d. Such other items as are necessary or desirable for the operation of the pool.

6. Designation of the initial or interim board and the administrator, together with pertinent biographical information for each member of the board and for the administrator or the principal officer or officers of the corporation serving as administrator. This information is to be submitted in a form acceptable to the commission.

7. The address in this Commonwealth where the books and records of the pool will be maintained at all times.

8. Information showing that the pool has, within its own organization or by contract with an approved service agent, sufficient facilities and competent personnel to service its program with respect to underwriting matters, compilation of statistics, loss prevention, safety engineering, and claims adjusting. Copies of all executed service agreements shall be filed with the commission.

9. A confirmation of a fidelity bond covering the administrator and its employees in a form and amount acceptable to the commission.

10. A projection of administrative expenses for the first year of operation as a total dollar amount and as a percentage of the estimated annual contributions.

11. Proof of net worth of the pool of at least \$100,000.

B. An application submitted by a group self-insurance pool shall be accompanied by a composite listing of the estimated annual gross contributions of each organizing member of the pool individually and in the aggregate for the pool, which, in the aggregate, shall be not less than 10 times the largest deductible being covered. The pool shall maintain a net worth in an amount equal to not less than 20% of the annual aggregate contributions for contracts currently in force; however, the minimum required net worth shall at no time be less than \$100,000.

C. Any subsequent revisions to items submitted under the provisions of 14 VAC 5-385-30 and 14 VAC 5-385-40 shall be filed with the commission within 30 days of such revision and shall be subject to approval by the commission.

14 VAC 5-385-50. Security deposit.

A. Except as provided in subsection B of this section, each group self-insurance pool licensed by the commission shall maintain with the State Treasurer a security deposit of acceptable securities in an amount equal to 20% of the annual aggregate contributions or \$100,000, whichever is greater, for each pool plan year. The commission may, from time to time, release or reduce the security deposit requirement. The security deposit shall be held by the State Treasurer and shall be subject to the provisions of Article 7 (§ 38.2-1045 et seq.) of Chapter 10 of Title 38.2 of the Code of Virginia.

For the purposes of this chapter, acceptable securities shall be (i) investments allowed by §§ 2.2-4500 of the Code of Virginia (legal investments for public sinking funds) and 2.2-4501 of the Code of Virginia (legal investments for other public funds); (ii) securities issued by other states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc.; (iii) revenue bonds rated Aa (AA) or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc. that are bonds issued by municipalities or political subdivisions of this Commonwealth or any other state; (iv) securities issued by the Federal Home Loan Bank; and (v) securities issued by the Federal Intermediate Credit Banks.

In addition to the minimum security deposit required by this section, the commission may require additional securities it considers appropriate after giving consideration to such factors as excess insurance and the financial ability of the group to meet its obligations under § 62.1-44.34:16 of the Code of Virginia.

B. As an alternative to the security deposit required by subsection A of this section, a

group self-insurance pool may have an appropriate endorsement attached to its contracts for excess insurance. The endorsement shall provide that in the event the group self-insurance pool fails to pay its liabilities under § 62.1-44.34:18 of the Code of Virginia, the excess coverage insurer shall become liable immediately for 100% of the total liability and shall make payment as directed by the commission.

14 VAC 5-385-60. Filing of reports; examination by the commission.

A. Each pool shall file annually with the commission on or before each March 1, an annual statement showing its financial operations and condition for the preceding calendar year. The commission, for good cause, may extend the time for filing the annual statement by not more than 60 days. A copy of the pool's annual statement also shall be provided to each pool member at the same time it is filed with the commission. In addition, each pool shall file a copy of an audited statement of its financial operations and condition prepared by an independent certified public accountant within six months of the end of the pool's fiscal period.

1. The annual statement shall contain a report in detail of the pool's assets, outstanding liabilities, including the amount of claims paid to date and current reserves for losses, revenues and disbursements during the year, the investments of the pool's assets and all other information which the commission may deem necessary to secure a full and accurate knowledge of the financial affairs and condition of the pool.

2. In addition to the annual statement and audited financial statement, the commission may require any pool to file additional financial information, including interim financial reports and additional reports, exhibits or statements considered necessary to secure complete information concerning the condition, solvency, experience, transactions or

affairs of the pool. The commission shall establish reasonable deadlines for filing these additional reports, exhibits or statements and may require verification as the commission may designate.

3. The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements may be reviewed by the commission.

B. The pool shall retain and have available for examination by the commission all executed copies of the application of each operator for membership in the pool.

C. Any person who knowingly or willfully makes or files any false or fraudulent statement, report or other instrument shall be charged with a Class 5 felony. If convicted, such person shall be guilty of a Class 5 felony.

D. The commission may examine the affairs, transactions, accounts, records, and assets of the pool as often as it deems necessary. The manner and frequency in which the examination of financial condition shall be conducted and the release of any reports of financial condition shall be as provided in Article 4 (§ 38.2-1317 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia.

14 VAC 5-385-70. Reserves.

A. Each pool shall calculate the amount reasonably determined to be sufficient to provide for the payment of every loss or claim whether reported or unreported, arising on or prior to the date of any annual or other statement and it shall maintain a reserve liability in an amount estimated in the aggregate to provide for the payment of all such losses or claims and any expenses related thereto.

B. Each pool shall maintain reserves equal to the unearned portion of the gross

contribution or assessment, if any, on unexpired or unterminated risks.

C. Each pool may receive credit for insurance or reinsurance recoverable from an insurance company licensed to transact such insurance in this Commonwealth, or any state of the United States or the District of Columbia and meeting the standards of solvency at least equal to those required in this Commonwealth. A pool may receive credit for insurance or reinsurance with any other insurer to the extent that funds are withheld as security for the payment of obligations thereunder if such funds are held subject to withdrawal by and are under the control of the pool. Such funds may include letters of credit subject to the approval of the commission. Credit may be received for insurance or reinsurance recoverable on the basis of an agreement entered into with incorporated and individual unincorporated underwriters having a trusteed surplus of at least \$100,000,000.

D. Credit may be received for insurance or reinsurance when the contract is:

1. Not cancelable or terminable for any reason except upon not less than 60 days written notice sent by registered or certified mail to (i) the pool and (ii) the commission; and

2. Automatically renewable at the expiration of the policy period except upon 60 days written notice sent by registered or certified mail to (i) the pool, and (ii) the commission.

E. No more than one pool, which shall be defined as the named insured, shall be covered by any contract or policy of excess liability insurance. Any contract of insurance or reinsurance shall be payable by the assuming insurer on the basis of the liability of the pool under the contract or contracts assumed without diminution because of the insolvency of the pool.

F. Copies of the complete contracts or policies of insurance or reinsurance, with all

endorsements thereto, entered into by the pool for the benefit of the pool, shall be filed with the commission.

G. No pool shall expose itself to a net retained liability for any loss on any one risk or hazard in an amount exceeding 10% of the aggregate annual contribution, unless authorized by the commission.

14 VAC 5-385-80. Responsibilities of members' supervisory board.

A. The members' supervisory board shall be responsible for holding and managing the assets of and directing the affairs of the pool and shall be elected in the manner prescribed by the pool's governing instruments. At least 75% of the board must be members of the pool, but a board member shall not be an owner, officer or employee of a service agent, its parent or any of its affiliated companies.

B. The board shall determine members' contributions to the pool and supervise the finances of the pool and the pool's operations to the extent necessary to assure conformity with law, this chapter, the member agreement, and the pool's governing instruments.

C. The board shall take all necessary precautions to safeguard the assets of the pool, including, but not limited to, the following:

1. Doing all acts necessary to assure that each member continues to be able to fulfill the obligations of membership, and reporting promptly to the commission any grounds or change in circumstances which may affect the pool's ability to meet its obligations such as withdrawal of a member;

2. Designating an administrator, or establishing alternative procedures acceptable to the Commission, to administer the affairs of the pool, to carry out the policies established

by the board, and to provide day to day management of the pool. The administrator shall furnish a fidelity bond in an amount sufficient to protect the pool against the misappropriation or misuse of any monies or securities. Evidence of the bond shall be filed with the commission as a condition for licensing the pool. The administrator shall not be an owner, officer or employee of a service agent, its parent or any of its affiliated companies.

3. Retaining control of all monies collected for the pool and the disbursement of such monies by the pool. All assets of the pool shall remain in the custody of the board or the administrator. However, a claims fund for payment of benefits due and other related expenses may be established for the use of a service agent; and

4. Actively collecting delinquent accounts resulting from any past due contributions by members. Any member of a pool who fails to make the required contributions after due notice may be declared ineligible for the self-insurance privilege until this past due account, including cost of collection, has been paid or adequately provided for.

D. Neither the board nor the administrator shall use any of the monies collected for any purpose unrelated to securing the members' liability or other rights and obligations under the member agreement and any administrative or other necessary expenses of the pool. Further, the board shall be prohibited from borrowing any monies from the pool or in the name of the pool without first advising the commission of the nature and purpose of the loan and obtaining the commission's approval.

E. The board may dispose of any surplus as provided in 14 VAC 5-385-90.

F. The board shall assure that the office of the administrator and service agent of the pool and all pertinent records necessary to verify the accuracy and completeness of all reports

submitted to the commission are maintained within this Commonwealth.

G. The board may adopt its own rules and procedures as considered necessary for the operation of the pool provided these rules and procedures are not inconsistent with § 62.1-44.34:12 of the Code of Virginia and this chapter.

H. The board may designate a service agent or agents.

14 VAC 5-385-90. Contribution requirements and distribution of surplus funds.

A. For the purpose of funding the liability of a pool the members shall make contributions to the pool in the manner prescribed in the member agreement.

B. At the effective date of the license of the pool and for each subsequent year of operation, at least 25% of the estimated annual contribution payable by each member of the pool shall have been paid into a designated depository. The balance of the annual contribution shall be paid no later than the end of the ninth month of the pool year. At no time shall each member's combined payments be less than the total earned estimated annual contribution due at that time.

Any surplus assets (i.e. those assets in excess of the amount necessary to fulfill all obligations under § 62.1-44.34:16 of the Code of Virginia and this chapter) accumulated within a pool year may be declared refundable by the board. The board shall establish the plan and the dates for payment of these excess assets. Payment of this surplus shall not be made until approved by the commission. Surplus assets accumulated within a pool year shall be used exclusively for the benefit of those members belonging to the pool during that pool year. The accounting of the surplus for each pool year shall provide for a separate itemization of the surplus for each pool year. The surplus assets of one pool year shall not be used to offset the deficiencies of other pool years.

However, the commission shall require that 3.0% or more of a pool's earned contributions for each fiscal accounting period be allocated to a contingency reserve. The contingency reserve shall be used at the direction of the pool's board subject to the approval of the commission. When the commission is satisfied that the contingency reserve is adequate for the needs of the pool, adjustments may be made by the commission as necessary to the contingency reserve or to contributions to the contingency reserve to maintain it at an established amount.

C. At the time of application each pool shall file with the commission the basis for establishing the annual contribution of its members. Such contributions shall be based on reasonable assumptions and certified by an actuary or other person satisfactory to the commission as to the sufficiency of such contributions. Any changes in annual contribution shall be filed in accordance with 14 VAC 5-385-40 C.

D. Each pool may levy upon its members an additional assessment whenever necessary to supplement the pool's surplus to assure payment of its obligations. A member may be assessed for any fiscal year during which the member participated in the pool. Such assessment may be made after the end of the pool's fiscal year and after the member has discontinued membership in the pool.

E. The board shall submit to the commission a report of the causes of the pool's surplus insufficiency, the assessments necessary to replenish it, and the steps taken to prevent a recurrence of such circumstances. The report shall be submitted within 30 days of any assessment of pool members under subsection D of this section.

14 VAC 5-385-100. Member agreement.

A. Every member of a group self-insurance pool shall execute a member agreement, which

shall set forth the rights, privileges and obligations of the member, and the terms, coverages, limits, and deductible of the pool plan. The member agreement shall be subject to the approval of the commission and shall provide for, in substance, the following:

1. Election by pool members of a governing authority for the pool, a majority of whom shall be pool members;
2. A requirement that the members' supervisory board designate and appoint an administrator empowered to accept service of process on behalf of the pool and authorized to act for and bind the pool and its members in all transactions relating to or arising out of the operation of the pool;
3. The right of substitution of the administrator and revocation of the power of attorney and rights thereunder;
4. A financial plan which is described in 14 VAC 5-385-40 A 4;
5. A management plan which is described in 14 VAC 5-385-40 A 5; and
6. A requirement that the pool, at the request of a member, provide without unreasonable delay, to any person designated by the member, proof of the coverages provided by the pool, including insurance or reinsurance, applicable deductible levels, and the maximum liability which the pool will retain.

Such member agreement may also contain such other provisions not inconsistent with law or this chapter.

B. The first page of the member agreement shall include a summary that shall disclose:

1. In regard to coverage:
 - a. The coverages provided;

- b. The period of the coverage;
- c. The amount of the deductible, if any, per claim or in the aggregate; and
- d. For each coverage, the maximum amount of coverage to be borne by the pool.

2. In regard to the contribution:

- a. The contribution and dates payments are due;
- b. The basis upon which each member's contribution is determined; and
- c. Whether any additional assessments of the members may be made.

3. In regard to excess coverage of the pool:

- a. A description of the excess coverage for the pool as to its coverage per occurrence, coverage per occurrence per person, if appropriate, and in the aggregate for each coverage offered; and
- b. A statement that there is no excess coverage for the pool if the pool has not obtained such coverage.

C. The member agreement shall include a prominent disclosure notice that must be signed by the member or a duly authorized officer or representative of the member. The disclosure notice shall use the following or substantially similar language:

A group self-insurance pool for operators of facilities is not protected by any Virginia insurance guaranty association against default due to insolvency. In the event of insolvency, members and persons filing claims against members may be unable to collect any amount owed to them by the pool regardless of the terms of the member agreement. In the event the pool is unable to pay, a member may be liable for any and all unpaid claims against such member.

14 VAC 5-385-110. Servicing of pool.

A. A service agent for the pool shall apply for and shall be subject to the approval of the commission before entering into a contract with a pool and shall satisfy the commission that it has adequate facilities and competent personnel to fulfill its obligations to the pool and comply with this chapter.

B. A service agent shall maintain a resident agent in this Commonwealth and that agent shall be authorized to act for a service agent on any and all matters covered by the service agreement.

C. A service agent shall file with the commission copies of all contracts entered into with the pool as they relate to the services to be performed. The service contract shall state that a service agent agrees to handle all claims covered by the service agreement incurred during the contract period to their conclusions without additional compensation unless approval to transfer them is obtained from the commission prior to such transfer.

D. A service agent shall furnish a fidelity bond covering its employees in an amount sufficient to protect all monies for which he has a fiduciary responsibility.

E. Upon satisfactory compliance with the above provisions, a certificate of approval as a recognized and authorized service agent shall be issued to a service agent. Failure to comply with any of the provisions of this chapter or any order of the commission within the time prescribed shall be considered justification for withdrawing the certificate of approval.

The commission shall give 10 days prior notice of such withdrawal. The notice shall be served personally, or by certified or registered mail, upon all interested parties setting forth the reason for withdrawal, and providing a service agent an opportunity to introduce evidence and be

heard. If, after a hearing, which may be formal or informal, a service agent's certificate of approval is withdrawn, this withdrawal shall become effective 30 days after issuance of the commission's order or within such shorter or longer period as the commission may consider necessary to protect the interests of the pool, its members, and their employees.

F. Each individual, partnership, corporation or other entity approved to act as a service agent for a pool may be required to file with the commission an annual statement of financial condition within four months of the completion of its fiscal year.

G. The pool, through its own personnel, may provide the services performed by a service agent upon approval by the commission.

14 VAC 5-385-120. Termination of pool members.

A. Membership in a pool may be terminated for nonpayment of premium or misrepresentation by the member after 15 days written notice has been given to the member, the commission, and the Department of Environmental Quality. A member may be terminated without cause after 60 days written notice has been given to the member, the commission, and the Department of Environmental Quality.

B. The pool shall remain liable for all claims applicable to the period during which an operator was a member of the pool, including the period required for termination of membership.

14 VAC 5-385-130. Revocation of license; voluntary dissolution of pool; merger of pools.

A. The commission may suspend, revoke or fail to renew a pool's license as provided in 14 VAC 5-385-30.

The commission shall give 10 days prior notice to a pool of the proposed suspension, revocation or non-renewal. The notice shall be served personally, or by certified or registered

mail, upon all interested parties and shall state the reasons for the proposed suspension, revocation or non-renewal and provide the pool with an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the pool's license is suspended, revoked or non-renewed, such action shall become effective 30 days after the commission's order is issued.

Any suspension may be terminated by the commission upon proof by the pool that the original reasons for suspension have been satisfactorily corrected, and that the pool continues to meet all other requirements for a license.

B. Before a pool may voluntarily dissolve, it shall present a plan of dissolution to the commission for approval. Such a plan shall provide for the payment of all incurred losses and expenses of the pool and its members, including all incurred but not reported losses, as certified by an actuary, to the extent of the pool's assets. No assets of the pool may be used for any other purpose until payment of all such losses and expenses is provided for.

C. Subject to the approval of the commission, a pool may merge with another group self-insurance pool for operators of facilities if the resulting pool assumes, in full, all obligations of the merging pools. The commission may hold a hearing on the merger and shall do so if any party, including a member of either pool, so requests.

14 VAC 5-385-140. Penalties.

Penalties for failure to comply with this chapter shall be as set forth in § 12.1-13 of the Code of Virginia.

14 VAC 5-385-150. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is

for any reason held to be invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.